IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 970 of 1997

Between:

Late Sri Janaki Rama Raju S/o. Venkataramakrishna Raju, (Since Died)
Rep by its L.R.,Sri I.V.R.Krishnamaraju, age-37, R/o. Chinakapavaram
Village, Akiveedu Mandal, W.G.Dist,

..... PETITIONER

AND

1 Telecom District Manager, Eluru, West Godavari District.
2 Senior Accountant Officer, O/o. The Telecom Dist, Manager,
Bheemavaram--534 202.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction preferably a Writ in the nature of Writ of Certiorari calling for the records relating to the issuance of impugned proceedings issued by 2nd Respondent herein in his Memo No. TRA.BMV/AKD.2575/LCC/12-BMV, dt. 31.12.1996 calling upon the petitioner to pay Rs. 21,512/- towards telephone bill arrears in respect of petitioner's telephone No. 52575 at Akiveedu Village & Mandal, West Godavari District and the petitioner prays that the same my be QUASHED & pass such other order or further orders as this Hon'ble Court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.M.RAMACHANDRA REDDY and

Mr.M.Vidyasagar

Counsel for the Respondent No.: MR.A.RAJASHEKAR REDDY (ASSISTANT SG)

The Court made the following:

ORDER:

This writ petition is filed questioning the proceedings of the second respondent dated 31-12-1996 calling upon the petitioner to pay Rs.21,512/- towards telephone bill arrears in respect of his telephone bearing No. 52575, at Akiveedu village and Mandal, West Godavari district.

The facts in brief are that the petitioner is using the subject telephone and alleges that the monthly bills would be ranging from Rs.1000/- to Rs.2500/-, except for one or two occasions. While so, for the period from 16-12-1995 to 15-2-1996 the petitioner received a bill for Rs.10,309/- and the petitioner has disputed the same and on the advise of the concerned authorities, petitioner provisionally paid an amount of
Rs.3356/-, pending enquiry into the matter. Thereafter, for the period from 16-2-1996 to 15-4-1996, a bill was issued amounting to Rs.17,375/, which was also disputed by the petitioner and provisionally he paid an amount of Rs.3436/- pending enquiry. The petitioner alleges that he never used the telephone so extensively and the excess billing is due to mechanical error in the Telephone Exchange. While so, the second respondent issued the impugned proceedings dated 31-12-1996 calling upon the petitioner to pay an amount of Rs.21,512/- on or before
31-12-1996 on the ground that there is no mechanical defect in the Telephone Exchange. Questioning the same, the petitioner filed the present writ petition.

This Court while admitting the writ petition on 27-1-1997, passed interim order in W.P.M.P. No.1128 of 1997, which reads as under:

> *"On deposit of 1/3rd of the amount claimed, the telephone connection of the petitioner shall be restored and the petitioner shall continue to pay the bills which will be issued for their utilization."*

A counter affidavit was filed on behalf of the respondents, denying the allegations made in the affidavit filed in support of the writ petition, including the mechanical defect in the telephone exchange. It is stated that the exchange maintenance has investigated the matter and reported that the there is no fault in the equipment. The date wise number call details were also furnished. Thus, in nut shell, the respondent justified the impugned proceedings calling upon the petitioner to pay an amount of

Rs.21,512/-.

Heard the learned counsel for the petitioner and the learned Standing Counsel for BSNL appearing on behalf of the respondents. Both the counsel submitted that the writ petition may be disposed of with a direction to the respondents to appoint an Arbitrator under Section 7B of the Indian Telegraph Act, 1885 to resolve the dispute between the parties with regard to excess billing.

In the circumstances, the writ petition is disposed of with a direction to the respondents to appoint an Arbitrator under Section 7B of the Indian Telegraph Act, 1885 within three months from today to resolve the dispute of excess billing between the petitioner and the respondents with respect to telephone bill, dated 31-12-1996 for the telephone bearing No. 52575. No costs.

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N.V.RAMANA, J

Dated 09th March, 2005.

Tvk

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 Telecom District Manager, Eluru, West Godavari District.
2 Senior Accountant Officer, O/o. the Telecom Dist, Manager, Bheemavaram--534 202.

3) 2 CD copies.

*Form-NIC-OGS/WP{**SAM**}*